

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill increases the accrual rate at which Special Risk Class members may upgrade certain past service and expands the qualifying past service.

B. EFFECT OF PROPOSED CHANGES:

Background on the Florida Retirement System

Chapter 121, Florida Statutes, is the Florida Retirement System Act and it governs the Florida Retirement System (FRS). The FRS is administered by the secretary of the Department of Management Services through the Division of Retirement.¹

The FRS is the primary retirement plan for employees of state and county government agencies, district school boards, and community colleges and universities.² The FRS also has participating employees of 151 cities and 186 independent special districts who have elected to join the system.³

The FRS offers a defined benefit plan that provides retirement, disability, and death benefits for nearly 600,000 active members and over 270,000 retirees, surviving beneficiaries, and Deferred Retirement Option Program participants.⁴ Members of the FRS belong to one of five membership classes:

Regular Class ⁵	570,888 members	88.00%
Special Risk Class ⁶	68,466 members	10.59%
Special Risk Administrative Support Class ⁷	80 members	0.01%
Senior Management Service Class ⁸	6,823 members	1.10%
Elected Officers Class ⁹	2,122 members	0.30%

Each class is separately funded through an employer contribution of a percentage of the gross compensation of the member based on the costs attributable to members of that class and as provided in chapter 121, Florida Statutes.¹⁰

The Special Risk Class and its Expansion

The Special Risk Class of the FRS was created to recognize that certain employees, because of the nature of the work they perform,¹¹ may need to retire at an earlier age with less service than other types of employees.¹² As such, members of the Special Risk Class can retire at age 55 or with 25 years of creditable service.¹³ Members of the Special Risk Class who participate in the defined benefit program

¹ Fla. Stat. § 121.025 (2005).

² Fla. Dep't of Mgmt. Serv., *Fla. Div. of Ret. Main Page* (visited Jan. 11, 2006) < <http://www.frs.state.fl.us/>>.

³ *Id.*

⁴ *Id.*

⁵ Fla. Stat. § 121.021(12) (2005).

⁶ Fla. Stat. § 121.0515 (2005).

⁷ Fla. Stat. § 121.0515(7) (2005).

⁸ Fla. Stat. § 121.055 (2005).

⁹ Fla. Stat. § 121.052 (2005).

¹⁰ See, e.g., Fla. Stat. 121.055(3)(a)1. (2005).

¹¹ Fla. Stat. § 121.0515(1) (2005) (work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity).

¹² *Id.*

¹³ Fla. Stat. § 121.021(29) (2005) (defining normal retirement date; this contrasts with members of the Regular Class who can retire at age 62 or with 30 years of credible service).

also earn a higher normal retirement benefit of three percent of the member's average final compensation.¹⁴ These increased benefits are funded through higher employer contribution rates: 17.37 percent of gross compensation, effective July 1, 2005, and 21.91 percent, effective July 1, 2006.¹⁵

The only employees originally in the Special Risk Class, under the current statute, were law enforcement officers, correctional officers, and firefighters.¹⁶ Starting in 1999, however, the Legislature started dramatically expanding the Special Risk Class:

1999	Emergency Medical Technicians and Paramedics ¹⁷
2000	Community-Based Correctional Probation Officers ¹⁸
	Twenty-four types of employees of correctional or forensic facilities or institutions ¹⁹
2001	Youth Custody Officers ²⁰
2005	Employees of a law enforcement agency or a medical examiner's office who are employed in a forensic discipline ²¹

Retirement Credit for Past Service

Section 121.0515, Florida Statutes, sets forth the criteria and procedures for designating members of the Special Risk Class. This section also permits special risk members to purchase retirement credit in the Special Risk Class based upon specified past service:

1. This past service was with a city or special district which is part of the Florida Retirement System where the member was employed at the time it began participating in the Florida Retirement System; or with a participating agency to which a member's governmental unit was transferred, merged, or consolidated where the member was employed at the time of the transfer, merger, or consolidation.²²
2. This past service qualifies for special risk membership as a law enforcement officer, firefighter, or correctional officer.²³

¹⁴ Fla. Stat. § 121.091(1)(a)2.h. (2005) (compared with 1.60 percent to 1.68 percent for members of the Regular Class).

¹⁵ Fla. Stat. 121.71(3) (2005) (compared with 6.67 percent, effective July 1, 2005, and 9.53 percent, effective July 1, 2006, for members of the Regular Class).

¹⁶ Ch. 78-308, Laws of Fla.; codified as Fla. Stat. § 121.0515.

¹⁷ Ch. 99-392, Laws of Fla., § 23.

¹⁸ Ch. 2000-169, Laws of Fla. § 29.

¹⁹ *Id.* (The following employees must spend at least 75 percent of their time performing duties which involve contact with patients or inmates to qualify for the Special Risk Class: dietitian; public health nutrition consultant; psychological specialist; psychologist; senior psychologist; regional mental health consultant; psychological services director-DCF; pharmacist; senior pharmacist (class codes 5248 and 5249); dentist; senior dentist; registered nurse; senior registered nurse; registered nurse specialist; clinical associate; advanced registered nurse practitioner; advanced registered nurse practitioner specialist; registered nurse supervisor; senior registered nurse supervisor; registered nursing consultant; quality management program supervisor; executive nursing director; speech and hearing therapist; and pharmacy manager.)

²⁰ Ch. 2001-125, Laws of Fla., § 43.

²¹ Ch. 2005-167, Laws of Fla. § 1; codified as Fla. Stat. § 121.0515(2)(h) (2005) (The member's primary duties and responsibilities must include the collection, examination, preservation, documentation, preparation, or analysis of physical evidence or testimony, or both, or the member must be the direct supervisor, quality management supervisor, or command officer of one or more individuals with such responsibility; the forensic discipline must be recognized by the International Association for Identification and the member must qualify for active membership in the International Association for Identification). See also Int'l Ass'n for Identification at <http://www.theiai.org/> (last visited Mar. 27, 2006).

²² Fla. Stat. § 121.0515(5)(a) (2005).

²³ *Id.*

Special Risk Class members may upgrade the retirement credit for this specified past service, up to two percent of the member's average monthly compensation.²⁴ The contributions for upgrading this additional special risk credit may be purchased by the member or by the employer on behalf of the member, but must be equal to the difference in the contributions paid and the special risk percentage rate of gross salary in effect at the time of purchase for the period being claimed, plus interest at a rate of 6.5 percent a year until the date of payment.²⁵ As such, the benefit of being able to purchase this past service is offset because the full retirement benefit must be purchased even though the retirement benefit received is one percent lower (2 percent) than the normal retirement benefit for the Special Risk Class (3 percent).

This bill *increases*, from two percent to three percent, the accrual rate at which Special Risk Class members may upgrade specified past service. This rate is the same as the normal retirement benefit for members of the Special Risk Class.

The bill also *expands* the qualifying past service which may be purchased to include special risk membership as an emergency medical technician or paramedic whose employer was a licensed Advanced Life Support or Basic Life Support provider.

Constitutional Requirements for Retirement or Pension System Increases

Article X, section 14 of the Florida Constitution provides that a governmental unit responsible for any retirement or pension system supported wholly or partially by public pension funds may not, after January 1, 1977, provide *any increase in benefits* to members or beneficiaries unless concurrent provisions for funding the increase in benefits are made on a sound actuarial basis.²⁶ According to the Department of Management Services, the actuarial study determined the fiscal impact to the Florida Retirement System was a 0.07 percent increase in the Special Risk Class contribution rate to fund this benefit.²⁷ Because the bill requires the contribution rate that applies to the Special Risk Class to be increased by 0.07 percentage points, it appears to satisfy this constitutional requirement.

C. SECTION DIRECTORY:

- Section 1: Amends section 121.0515, Florida Statutes, to increase the accrual rate for past service and to permit work for certain employers as an emergency medical technician or paramedic to qualify as past service.
- Section 2: Requires the contribution rate for the Special Risk Class to increase by 0.07 percentage points, effective July 1, 2006.
- Section 3: Provides a statement of important state interest.
- Section 4: Sets an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

²⁴ Fla. Stat. § 121.0515 (2005).

²⁵ Fla. Stat. § 121.0515(5)(b) (2005).

²⁶ Part VII of chapter 112, Florida Statutes, the "Florida Protection of Public Employee Retirement Benefits Act," was adopted by the Legislature to implement the provisions of article X, section 14 of the Florida Constitution. This law establishes minimum standards for operating and funding public employee retirement systems and plans. This part is applicable to all units of state, county, special district and municipal governments participating in or operating a retirement system for public employees which is funded in whole or in part by public funds.

²⁷ Fla. Dep't of Mgmt. Serv., HB 977 (2006) Substantive Bill Analysis (Feb. 20, 2006) (on file with dep't) (Actuarial Special Study 2005-L, performed by Milliman, Inc., April 22, 2005).

The Florida Retirement System will receive increased Special Risk Class contributions.

2. Expenditures:

This bill is expected to have a fiscal impact on state government expenditures.²⁸

Fiscal Year 2006-2007	\$ 672,000
Fiscal Year 2007-2008	\$ 699,000
Fiscal Year 2008-2009	\$ 727,000

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

This bill is expected to have a fiscal impact on local government expenditures.²⁹

Fiscal Year 2006-2007	\$ 1,746,000
Fiscal Year 2007-2008	\$ 1,816,000
Fiscal Year 2008-2009	\$ 1,888,000

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

The Department of Management Services provided the following fiscal note from the enrolled actuary regarding this bill:

The cost to be paid by the affected members or employers on behalf of their employees to upgrade the service is not sufficient to pay for this kind of benefit enhancement. Any costs not covered by this pricing structure would be shifted to the system and would result in increased contribution rates for all employers with Special Risk Class members. There is an additional cost beyond the estimate if members delay purchasing their service credit until just before retirement. HB 977 provides for a 0.07% increase in the Special Risk Class employer contribution rate effective July 1, 2006.³⁰

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to reduce the percentage of a state tax shared with counties or municipalities. This bill does not appear to reduce the authority that municipalities have to raise revenue.

This bill is expected, however, to require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. Because the bill provides that it fulfills an important state interest and the expenditures required by the bill appear to apply to all persons similarly situated,

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

including the state and local governments, the bill appears to satisfy the requirements of section 18 of article VII of the Florida Constitution.³¹

2. Other:

Article X, Section 14

As previously discussed, benefit increases to public retirement or pension systems may not be made unless funding is concurrently provided for the increase. The Department of Management Services concludes that the bill complies with this constitutional requirement.³²

B. RULE-MAKING AUTHORITY:

This bill does not appear to create, modify, or eliminate rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

³¹ Section 18 of article VII of the Florida Constitution provides that counties and municipalities may not be bound by a general law requiring a county or municipality to spend funds or take an action requiring the expenditure of funds unless it fulfills an important state interest and one of five criteria is met: (1) funds have been appropriated that have been estimated at the time of enactment to be sufficient to fund such expenditure; (2) the legislature authorizes or has authorized a county or municipality to enact a funding source not available for such county or municipality on February 1, 1989, that can be used to generate the amount of funds estimated to be sufficient to fund such expenditure by a simple majority vote of the governing body of such county or municipality; (3) the law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature; (4) the expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments; or (5) the law is either required to comply with a federal requirement or required for eligibility for a federal entitlement, which federal requirement specifically contemplates actions by counties or municipalities for compliance.

³² *Id.* (although the explanation provided indicates that the member purchase "price" does not cover the total actuarial impact of the benefit improvement to the Florida Retirement System).